

1 **JESSE LASLOVICH**

2 **BRETT O'NEIL**

3 Special Deputy Ravalli County Attorneys

4 Special Assistant Montana Attorneys General

5 Office of the Commissioner of Securities and Insurance

6 Montana State Auditor

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8 Helena, Montana 59601

9 (406) 444-2040

10 Attorneys for Plaintiff

11 **MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT,**  
12 **RAVALLI COUNTY**

13 STATE OF MONTANA,

)

Cause No. DC-11-117

)

14 Plaintiff,

)

15 vs.

)

**MOTION FOR LEAVE TO FILE  
AMENDED INFORMATION AND  
AFFIDAVIT IN SUPPORT**

)

)

16 HARRIS HIMES,

)

)

17 Defendant.

)

)

18 STATE OF MONTANA

)

) ss.

19 County of Ravalli

)

20 JESSE LASLOVICH, having been first duly sworn, deposes and says:

21 1. That he is a duly appointed, qualified, and acting Special Deputy County

22 Attorney in and for the county of Ravalli, state of Montana.

23 2. That the Defendant has committed offenses in Ravalli County as hereinafter set  
24 forth and, based upon information developed through an investigation conducted by law

25 enforcement officers and criminal justice investigators, the Court should grant leave to file the

Amended Information directly in District Court pursuant to Mont. Code Ann. § 46-11-201,

charging the above-named Defendant with the offenses of: **COUNT I, THEFT**, by purposely or



1 knowingly obtaining by threat or deception control over G.S.'s property and using, concealing,  
2 or abandoning the property knowing that the use, concealment, or abandonment probably would  
3 probably deprive G.S. of his property, a FELONY, in violation of Mont. Code Ann. § 45-6-  
4 301(2)(c); **COUNT II, FAILURE TO REGISTER AS A SALESPERSON**, by representing an  
5 issuer in effecting or attempting to effect sales of securities without being registered, a  
6 FELONY, in violation of Mont. Code Ann. § 30-10-201(1); **COUNT III, FAILURE TO**  
7 **REGISTER A SECURITY**, by offering an unregistered security to G.S., a FELONY, in  
8 violation of Mont. Code Ann. § 30-10-202(1); **COUNT IV, FRAUDULENT PRACTICES**, by  
9 directly or indirectly making untrue statements of a material fact and/or omitting a material fact,  
10 which, in light of the circumstances under which they were made, were misleading, a FELONY,  
11 in violation of Mont. Code Ann. § 30-10-301(1)(b); **COUNT V, CONSPIRACY TO COMMIT**  
12 **THEFT**, by agreeing with another to purposely commit the offense of theft, and acting in  
13 furtherance thereof by purposely or knowingly obtaining by threat or deception control over  
14 G.S.'s property and using, concealing, or abandoning the property knowing that the use,  
15 concealment, or abandonment probably would deprive G.S. of his property, a FELONY, in  
16 violation of Mont. Code Ann. §§ 45-6-301(2)(c) and 45-4-102(1); **COUNT VI, CONSPIRACY**  
17 **TO COMMIT FRAUDULENT PRACTICES**, by agreeing with another to purposely commit the  
18 offense of securities fraud, and acting in furtherance thereof by directly or indirectly making  
19 untrue statements of a material fact and/or omitting a material fact, which, in light of the  
20 circumstances, were misleading, a FELONY, in violation of Mont. Code Ann. §§ 30-10-  
21 301(1)(b) and 45-4-102(1); **COUNT VII, FAILURE TO REGISTER AS A SALESPERSON,**  
22 by representing an issuer in effecting or attempting to effect sales of securities without being  
23 registered, a FELONY, in violation of Mont. Code Ann. § 30-10-201(1).  
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1           3.       That law enforcement officers and criminal justice investigators have made a full  
2 and careful investigation of all the facts and circumstances surrounding the commission of said  
3 offenses, so far as they are known or ascertainable, and Affiant believes it a proper case for the  
4 filing of an Amended Information. For this reason and pursuant to Mont. Code Ann. § 46-11-  
5 201, Affiant respectfully moves the Court for leave to file said Amended Information directly in  
6 District Court.

7           4.       That the following information is submitted to establish probable cause for the  
8 filing of the foregoing charges:

9               a.       On or about December 2007, G.S. received notice he would be inheriting  
10 a large sum of money. He discussed this windfall with Defendant Harris Himes, a pastor at Big  
11 Sky Christian Center. G.S. told Defendant he wished to invest his money in a conservative,  
12 risk-free investment that provided income to support ministry work and would allow him to  
13 serve the Lord full time.

14               b.       Defendant told G.S. that Defendant and another pastor, James "Jeb"  
15 Bryant, were partners in a company called Duratherm Building Systems (DBS). DBS allegedly  
16 manufactured structural insulated panels and would eventually provide a healthy return should  
17 G.S. choose to invest.

18               c.       On or about March 2008, Pastor Bryant gave a PowerPoint presentation  
19 to G.S. about DBS. Defendant was present at the meeting. Defendant and Pastor Bryant told  
20 G.S. they, themselves, could not invest more money "right now" because their money was tied  
21 up in a gold mine in New Mexico, but if they could get \$150,000, they could procure a glue  
22 machine, which was the last thing DBS needed to begin production of its insulated panels. At  
23 the meeting, Defendant and Pastor Bryant told G.S. that in exchange for a \$150,000 investment,  
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1 G.S. would receive a 20 percent minimum annual return for two years, or a 5 percent ownership  
2 with DBS with a 20 percent annual return and “perks” for a longer-term investment. These  
3 “perks” were to include the use of a beach house in Mexico and employment with DBS.

4 d. Based on the forgoing information, G.S. agreed to a \$150,000 investment  
5 which, according to the PowerPoint presentation and subsequent emails, would provide G.S.  
6 with \$36,000 per year return (roughly 24 percent on the investment). Pastor Bryant’s  
7 subsequent emails to G.S. also included bank wiring instructions. Pastor Bryant further  
8 provided a third party’s Letter of Intent stating it would purchase panels should certain timelines  
9 be met. This Letter of Intent was not on any company letterhead, nor did it refer to any specific  
10 business purpose for the panels.

11 e. Defendant Himes encouraged G.S. to set up a corporation sole from  
12 which to wire the \$150,000. G.S. set up a corporate account named “Image of Truth” in May  
13 2008. Defendant Himes told G.S. a corporation sole was the best method for handling the  
14 financial side of ministry work.

15 f. On or about June 6, 2008, G.S. wired \$150,000 from the corporate  
16 account “Image of Truth” to Harris Bank in Chicago, Illinois, f/b/o Monarch Beach Properties,  
17 LLC (Monarch), per the instructions in Pastor Bryant’s emails. G.S. was told that Monarch was  
18 a “type of parent corporation” for DBS. Monarch is solely owned by Pastor Bryant and his  
19 wife, Diana Bryant. The Monarch address on the wiring instructions contained in Pastor  
20 Bryant’s email is located in an apartment complex in Rockville, Maryland, but the company is  
21 not registered with the Maryland Secretary of State. Harris Bank records, however, list a P.O.  
22 Box in Hamilton, Montana, as Monarch’s mailing address.  
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1           g.       On or about July 2008, at the Defendant's behest and with encouragement  
2 from Pastor Bryant, G.S. traveled to Texas to meet with Pastor Bryant to assist with  
3 transportation across the Mexican border. Defendant provided vehicle stickers to G.S. prior to  
4 his departure from Montana.

5           h.       Approximately one month after arriving in Texas, G.S. travelled with  
6 Pastor Bryant to Mexico to view the property where the factory was alleged to be and to work as  
7 an electrician for DBS, one of the "perks" described in the initial offering. When he arrived at  
8 the location of the alleged factory, he found an empty building. There were no workers, no  
9 machinery, no floor plan, and no sign that the building was occupied. This facility was not  
10 owned by DBS, Defendant, or Pastor Bryant. Shortly after the "factory" tour, Pastor Bryant left  
11 G.S. alone in Mexico and G.S. was forced to return to Texas by himself.

12           i.       DBS is an investment property per the subscription agreement provided to  
13 G.S. by Defendant. However, G.S. never received a statement of ownership in DBS after he  
14 transferred the money to the Monarch account (the subscription agreement states DBS will issue  
15 certificates of ownership to its investors). Furthermore, G.S. was denied access to a financial  
16 accounting of assets (the subscription agreement states they will be viewable during reasonable  
17 business hours). Finally, G.S. never received a prospectus or even a receipt confirming his  
18 purchase (he was given the unsigned subscription agreement in lieu of both). His request to  
19 Defendant and Pastor Bryant to be bought out from his share in the company has not been met,  
20 though Defendant and Pastor Bryant have told G.S. they would help him to sell off his share in  
21 the business. Both Defendant and Pastor Bryant stopped returning G.S.' phone calls over one  
22 year ago.  
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1 j. Bank statements obtained by the Office of the Commissioner of Securities  
2 and Insurance, Montana State Auditor (CSI), confirm G.S. deposited \$150,000 into the Monarch  
3 account. This money ultimately went to various payees, including Defendant and Pastor Bryant;  
4 to credit card debt owned by Monarch Beach Properties (both Defendant and Pastor Bryant were  
5 named on the credit cards); and to various other payees. G.S.'s investment did not go to DBS.  
6 G.S. never received a 20 percent minimum annual return for two years; he never received a 5  
7 percent (or any type of) ownership with DBS with a 20 percent annual return; he never received  
8 the "perks" which Defendant and Pastor Bryant promised for his investment with DBS. The  
9 Defendant and Pastor Bryant never returned G.S.'s money.

10 k. Neither Defendant nor Pastor Bryant are registered, nor have they ever  
11 been registered, to sell securities in the state of Montana with the CSI. DBS was not registered  
12 as an investment property with the CSI. Neither Defendant nor Pastor Bryant disclosed this  
13 information to G.S.

14 l. After the CSI filed its Information against Defendant Himes, the CSI was  
15 approached by certain persons claiming they, too, had been offered securities by the Defendant.  
16 An investigation revealed that on or about 2000-2004, Defendant Himes had a series of  
17 meetings with various citizens of Ravalli County. In those meetings, Defendant Himes advised  
18 people to make group investments in the commodities market.

19 m. On or about February 1, 2000, L.J., who was in attendance with his wife at  
20 one of these meetings, made an investment of \$10,000 with Defendant Himes. L.J. received a  
21 signed letter from Defendant acknowledging L.J. was "investing in a program which will enable  
22 him to help in both the Lord's work and his own retirement." Based on the Defendant's  
23 representations, L.J. believed he would receive \$1,000-\$2,000 per month on his investment.  
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1           n.    On or about 2002, L.J. had not received any return on his investment. He  
2 approached the Defendant in an effort to withdraw his money, but was told it was with three  
3 men in California.

4           o.    On or about 2003, L.J. again approached the Defendant in an attempt to  
5 recoup his money. The Defendant told L.J. the money was gone.

6           WHEREFORE, the undersigned moves the Court for an Order granting leave to file an  
7 Information directly in District Court charging the above-named Defendant with the felony  
8 offenses of THEFT, by purposely or knowingly obtaining by threat or deception control over  
9 G.S.'s property and using, concealing, or abandoning the property knowing that the use,  
10 concealment, or abandonment probably would deprive G.S. of his property, a FELONY, in  
11 violation of Mont. Code Ann. § 45-6-301(2)(c); FAILURE TO REGISTER AS A  
12 SALESPERSON, by representing an issuer in effecting or attempting to effect sales of securities  
13 without being registered, a FELONY, in violation of Mont. Code Ann. § 30-10-201(1);  
14 FAILURE TO REGISTER A SECURITY, by offering an unregistered security to G.S., a  
15 FELONY, in violation of Mont. Code Ann. § 30-10-202(1); FRAUDULENT PRACTICES, by  
16 directly or indirectly making untrue statements of a material fact and/or omitting a material fact,  
17 which in light of the circumstances under which they were made were misleading, a FELONY,  
18 in violation of Mont. Code Ann. § 30-10-301(1)(b); CONSPIRACY TO COMMIT THEFT, by  
19 agreeing with another to purposely commit the offense of theft, and acting in furtherance thereof  
20 by purposely or knowingly obtaining by threat or deception control over G.S.'s property and  
21 using, concealing, or abandoning the property knowing that the use, concealment, or  
22 abandonment probably would deprive G.S. of his property, a FELONY, in violation of Mont.  
23 Code Ann. §§ 45-6-301(2)(c) and 45-4-102(1); CONSPIRACY TO COMMIT FRAUDULENT  
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1 PRACTICES, by agreeing with another to purposely commit the offense of securities fraud, and  
2 acting in furtherance thereof by directly or indirectly making untrue statements of a material fact  
3 and/or omitting a material fact which, in light of the circumstances, were misleading, a  
4 FELONY, in violation of Mont. Code Ann. §§ 30-10-301(1)(b) and 45-4-102(1), and FAILURE  
5 TO REGISTER AS A SALESPERSON, by representing an issuer in effecting or attempting to  
6 effect sales of securities without being registered, a FELONY, in violation of Mont. Code Ann.  
7 § 30-10-201(1) as more particularly set forth herein.

8 Due to the large sum of money at issue in this case, the State feels bond should continue  
9 to be \$10,000.

10 DATED this 10<sup>th</sup> day of November, 2011.

11  
12   
13 **JESSE LASLOVICH**  
14 **BRETT O'NEIL**  
Special Deputy Ravalli County Attorney

15  
16 SUBSCRIBED AND SWORN to me before this 10<sup>th</sup> day of November, 2011, by

17 Jesse Laslovich

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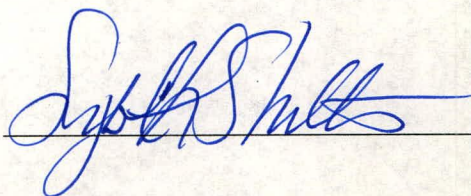


**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served on the 10<sup>th</sup>  
day of November, 2011, by US mail, certified first-class postage paid, to the following:

Hon. Loren Tucker  
5<sup>th</sup> Judicial District Court  
2 S. Pacific #6  
Dillon, MT 59725

Patrick F. Flaherty  
Attorney at Law  
1026 First Avenue South  
P.O. Box 1968  
Great Falls, MT 59403

A handwritten signature in blue ink, appearing to read "Sybil Shultz", is written over a horizontal line.